IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

W.P.(C) No. 31188 of 2007 - K

PETITIONER:

SMT.T.K.ANNAMMA, 28/815,
PANAKKAL HOUSE, MATTALIL TEMPLE ROAD,
KADAVANTRA, COCHIN-20.

BY ADV. SRI.S.CHANDRASENAN

RESPONDENTS:

1. KERALA STATE HOUSING BOARD,
REPRESENTED BY ITS SECRETARY,
STATE HOUSING BOARD OFFICE, TRIVANDRUM.

2. THE ADMINISTRATIVE OFFICER,
OFFICE OF THE REGIONAL ENGINEER,
KERALA STATE HOUSING BOARD,
COCHIN HOUSING UNIT, COCHIN -36.

3. THE REGIONAL ENGINEER,
OFFICE OF THE REGIONAL ENGINEER,
KERALA STATE HOUSING BOARD, COCHIN-36.

BY ADV. SRI.A. JAYASANKAR, SC FOR KSHB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 31188 OF 2007 K
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Dated this the 13th November, 2007

J U D G M E N T

The prayer sought for in the writ petition is to quash Exts. P9 and P10 and to direct the 2nd respondent to transfer the plot allotted to the petitioner pursuant to Ext. P4 letter collecting the transfer fee of Rs.1,000/-.

2. The petitioner was allotted a plot of land in 1984. Petitioner submits that possession was handed over by Ext. P1 only on 9-12-2002. Subsequently, an application dated 7-5-2005 was made for transfer of the said plot. Though the said application was processed by the 2nd respondent, who had also issued Ext. P5 requiring the petitioner to remit transfer fee of Rs.2,956/-, at a later stage the transfer was declined to be effected. The 2nd respondent demanded that the petitioner should remit 10% of the market value of the plot to be transferred amounting to Rs.4,67,040/- as

transfer fee. It is this demand that led to the filing of this writ petition.

3. In so far as the transfer fee is concerned, this was governed by Ext. P6 dated 3-7-1991 which provided for a transfer fee of Rs.1,000/-. It is submitted by the Standing Counsel that subsequently, the Board in its meeting held on 27-6-2007 resolved to levy 10% of the market value in cases where the allottee had committed violation of the terms of agreement. According to the learned counsel, this is a case where the petitioner had committed violation of the agreement conditions particularly clause 15 thereof and it was therefore that the transfer fee of Rs.4,67,040/- was demanded in Ext. P10.

4. However, I notice that the Board also admits the position that the petitioner had applied for transfer by application dated 7-5-2005. This application was made at a time when the Board decision dated 27-6-2007 resolving to realise 10% was not taken by the Board. This means at the time when the application was made 10% levy had not come into force. In my view, as the application of the petitioner was

made as early as on 7-5-2005, the request of the petitioner for transfer has to be decided in the light of the situation prevailing at the time when the application was made. This aspect of the matter has not been considered by any of the respondents while issuing Exts. P9 and P10.

5. For the above reasons, I quash Exts. P9 and P10 and direct that the 3rd respondent shall consider the request of the petitioner for transfer pursuant to the application made by her on 7-5-2005 in the light of the observations made herein above. The decision in this regard shall be taken as expeditiously as possible, at any rate within 4 weeks of receipt of a copy of this judgment.

The writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-